

**BEFORE THE
U.S. DEPARTMENT OF TRANSPORTATION
WASHINGTON, D.C.**

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Motion of)	
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ABX AIR, INC.)	Docket DOT-OST-2007-27297
)	
for Confidential Treatment of Documents)	
Under Rule 12 of the Rules of Practice of the)	
Department of Transportation, 14 C.F.R. § 302.12)	
(Form 41; Schedule B-43))	
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**MOTION OF ABX AIR, INC. FOR
CONFIDENTIAL TREATMENT PURSUANT TO RULE 12**

Comments with respect to this document should be addressed to:

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Attorneys for
ABX AIR, INC.

Dated: April 7, 2009

**BEFORE THE
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**MOTION OF ABX AIR, INC. FOR
CONFIDENTIAL TREATMENT PURSUANT TO RULE 12**

Pursuant to Rule 12 of the Department of Transportation's ("Department") Rules of Practice (14 C.F.R. § 302.12), ABX Air, Inc. ("ABX") hereby requests that certain information contained in ABX's Form 41, Schedule B-43, Inventory of Airframes and Aircraft Engines, for the year ended December 31, 2008, be accorded confidential treatment and be withheld from public disclosure. ABX requests confidential treatment of the following commercial and financial information contained in its Schedule B-43: (1) Acquired Cost or Capitalized Value; (2) Allowance for Depreciation or Amortization; (3) Depreciated Cost or Amortized Value; and (4) Estimated Residual Value. Pursuant to § 302.12, a non-redacted Schedule B-43 is being filed under seal in the enclosed envelope with the marking "Confidential Treatment Requested under § 302.12" along with a copy of this motion.¹

¹ ABX is also providing to the Bureau of Transportation Statistics a non-confidential version of its Schedule B-43 report, which has been redacted to delete the information for which ABX is seeking confidential treatment herein.

The Freedom of Information Act, 5 U.S.C. § 552(b)(4), provides that privileged or confidential commercial and financial information obtained from a private person is specifically exempted from the requirements of public disclosure due to its business sensitive nature. The information that is the subject of this motion details ABX's acquisition costs for its airframe and engine purchases. The public release of this information would cause substantial competitive and financial injury to ABX. The release of this information would significantly hinder ABX's efforts to negotiate favorable terms from commercial vendors of airframes, aircraft and aircraft engines. Finally, this information would not normally be made public by ABX, as public disclosure would cause substantial competitive harm to the company. Accordingly, the information should be withheld from public disclosure.

This information may properly be withheld from public disclosure under Exemption 4 of the Freedom of Information Act, 5 U.S.C. § 552(b)(4), which permits protection from disclosure for "trade secrets and commercial or financial information obtained from a person and privileged or confidential." See, e.g., Gulf & Western Industries, Inc. v. United States, 615 F.2d 527 (D.C. Cir. 1979); Critical Mass Energy Project v. NRC, 975 F.2d 871 (D.C. Cir. 1992).

The Department has previously determined that the information contained in Schedule B-43 reports submitted by other carriers would be withheld from public disclosure for a period of ten (10) years from the date on which the information was required to be filed. The same ruling should apply with equal validity to ABX's Schedule B-43 report that is the subject of this motion.

WHEREFORE, ABX Air, Inc. respectfully moves the Department of Transportation to withhold the financial information contained in ABX's Schedule B-43 report for the year that ended December 31, 2008, filed concurrently herewith under seal, from public disclosure for a period of ten (10) years, pursuant to Rule 12 of the Department's Rules of Practice.

Respectfully submitted,

SILVERBERG, GOLDMAN & BIKOFF, L.L.P.

Attorneys for
ABX AIR, INC.

By: Robert P. Silverberg (by TAA)
Robert P. Silverberg

Dated: April 7, 2009